

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**DERRICK BALL,**

**Plaintiff,**

**v.**

**FARM CREDIT SERVICES OF  
AMERICA,**

**Defendant.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**CASE NO. 8:09CV16**

**MEMORANDUM  
AND ORDER**

This matter is before the court on Defendant's Motion to Dismiss. (Filing No. [9](#).) As set forth below, the Motion is denied.

Plaintiff filed this matter on January 12, 2009. (Filing No. [1](#).) On March 2, 2009, the court conducted an initial review and permitted Plaintiff's claims to proceed. (Filing No. [7](#).) The court also explicitly extended the time for Plaintiff to complete service of process. As set forth in that Memorandum and Order:

[Fed. R. Civ. Pro. 4](#) requires service of a complaint on a defendant within 120 days of filing the complaint. However, because in this order Plaintiff is informed for the first time of these requirements, Plaintiff is granted, on the court's own motion, an extension of time until 120 days from the date of this order to complete service of process . . . Plaintiff is hereby notified that failure to obtain service of process on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant.

([Id.](#) at CM/ECF p. 5.) Thus, Plaintiff had 120 days from March 2, 2009, or until June 30, 2009, in which to complete service of process on Defendant. On May 28, 2009, Plaintiff requested that summons be issued, and the Clerk of the court issued the summons. (Filing No. [8](#).) The summons and a copy of the Complaint was served on Defendant on June 17, 2009. (Filing No. [12](#).)

In its Motion, Defendant requests that the court dismiss the Complaint due to insufficiency of service of process because it was not served within 120 days of the filing of the Complaint. (Filing No. [10](#).) While it is true that Plaintiff did not effect service of process within 120 days of the filing of the Complaint in accordance with Federal Rule of Civil Procedure 4, Plaintiff clearly complied with the court's previous Memorandum and Order and timely effected service of process.

IT IS THEREFORE ORDERED that:

1. Defendant's Motion to Dismiss (Filing No. [9](#)) is denied;
2. In accordance with [Federal Rule of Civil Procedure Rule 12\(a\)\(4\)\(A\)](#), Defendant shall file its answer no later than 10 days from the date of this Memorandum and Order; and
3. A separate progression order will be entered progressing this matter to final disposition.

DATED this 2<sup>nd</sup> day of October, 2009.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge

---

\*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.